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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
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CHRISTIE, PARKER & HALE, LLP 350 WEST COLORADO BOULEVARD SUITE 500			GAKH, YELENA G	
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PASADENA, CA 91105			1743	· · · · · · · · · · · · · · · · · · ·
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Stammer Period for Reply T443 T443		Application No.	Applicant(s)				
Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILUND DATE OF THIS COMMUNICATION. A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILUND DATE OF THIS COMMUNICATION. It is paired for reply specified above is test time they good of 37 CFR 1 136(s), in ne event, because, may a reply be timely filled above 37 CFR 1 136(s), in ne event, because, may a reply be timely filled above 37 CFR 1 136(s), in ne event, because, may a reply be timely filled above 37 CFR 1 136(s), in ne event, because, may a reply be timely filled above 37 CFR 1 136(s), in ne event, because, may a reply be timely filled above 37 CFR 1 136(s), in ne event, because, may a reply be timely filled on a short 3X (s) MoNTHS from the repulling date of this communication. If the pained for reply specified above is test time thinly (gold days, a reply which the standary minimum and above 35 CFR 1 136(s). If the pained for reply specified above is test time they gold days, a reply which the standary minimum and above 35 CFR 1 136(s). Falluto to reply which has star developed bed above 37 CFR 1 136(s). A prefix term adjoration. Base 37 CFR 1 136(s). A prefix the above claim (s) is filled on 31 August 2001. 2a) This action is FINAL. 2b) This action is final. 2b) Claim(s) 1-28 Is/are pending in the application. 4a) Of the above claim(s) is/are allowed. 5c) Claim(s) is/are objected to by the Examiner. 10c) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abovance. See 37 CFR 1.85(s). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to see 37 CFR 1.121(d). 11) The above of the objected to by the Examiner. 10) The drawing(s) filed on is objected to by the Examiner. 10) Acknowledgment is made of a claim		09/945,003					
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Application/Control Number: 09/945,003

Art Unit: 1743

DETAILED ACTION

Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-17 and 19-28, drawn to a method for monitoring a biological property, classified in class 436, subclass 55.
 - II. Claim 18, drawn to a delocalized apparatus for monitoring a biological property, classified in class 422, subclass 50.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the method can be performed with an apparatus, comprising user terminal and controller geographically located in the same place.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

This application contains claims directed to the following patentably distinct species of the claimed invention related to a biological property, i.e. blood glucose concentration, hCG level, bacterial level, pulmonary function, auscultation, nevi morphology, refractive error, intraocular pressure and auditory response recited in claims 20-28.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

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Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

A telephone call was made to John D. Carpenter on 01/27/04 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yelena G. Gakh, Ph.D. whose telephone number is (571) 272-1257. The examiner can normally be reached on 9:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1700.

Yelena G. Gakh 1/28/04